

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Kenneth F. Buechler

Serial Number: 10/697,351

Filing Date: October 29, 2003

Title: DIAGNOSTIC DEVICES AND  
APPARATUS FOR THE CONTROLLED  
MOVEMENT OF REAGENTS WITHOUT  
MEMBRANES

Group Art Unit: 1797

Examiner: Lyle Alexander

CONFIRMATION NO: 7522

**FILED ELECTRONICALLY ON: August 5, 2008**

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.97**

Sir:

An Information Disclosure Statement along with attached PTO/SB/08 is hereby submitted. A copy of each listed publication is submitted, if required, pursuant to 37 CFR §§1.97-1.98, as indicated below.

The Examiner is requested to review the information provided and to make the information of record in the above-identified application. The Examiner is further requested to initial and return the attached PTO/SB/08 in accordance with MPEP §609.

The right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered, is hereby reserved.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, prior art or material to patentability as defined in §1.56.

- A.  *37 CFR §1.97(b)*. This Information Disclosure Statement should be considered by the Office because:
- (1) It is being filed within 3 months of the filing date of a national application and is other than a continued prosecution application under §1.53(d);  
-- OR --
  - (2) It is being filed within 3 months of entry of the national stage as set forth in §1.491 in an international application;  
-- OR --
  - (3) It is being filed before the mailing of a first Office action on the merits;  
-- OR --
  - (4) It is being filed before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
- B.  *37 CFR §1.97(c)*. Although this Information Disclosure Statement is being filed after the period specified in *37 CFR §1.97(b)*, above, it is filed before the mailing date of the earlier of (1) a final office action under §1.113, (2) a notice of allowance under §1.311, or (3) an action that otherwise closes prosecution on the merits, this Information Disclosure Statement should be considered because it is accompanied by one of:
- a statement as specified in §1.97(e) provided concurrently herewith;  
-- OR --
  - a fee of \$180.00 as set forth in §1.17(p) authorized below, enclosed, or included with the payment of other papers filed together with this statement.
- C.  *37 CFR §1.97(d)*. Although this Information Disclosure Statement is being filed after the mailing date of the earlier of (1) a final office action under §1.113 or (2) a notice of allowance under §1.311, it is being filed before payment of the issue fee and should be considered because it is accompanied by:
- i. a statement as specified in §1.97(e);  
-- AND --
  - ii. a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this Statement.
- D.  *37 CFR §1.97(e)*. Statement.
- A statement is provided herewith to satisfy the requirement under *37 CFR §§1.97(c)*;  
-- AND/OR --
  - A statement is provided herewith to satisfy the requirement under *37 CFR §§1.97(d)*;  
-- AND/OR --
  - A copy of a dated communication from a foreign patent office clearly showing that the information disclosure statement is being submitted within 3 months of the filing date on the communication is provided in lieu of a statement under *37 C.F.R. § 1.97(e)(1)* as provided for under MPEP 609.04(b) V.
- E.  *Statement Under 37 C.F.R. §1.704(d)*. Each item of information contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart application that was received by an individual designated in § 1.56(c) not more than thirty (30) days prior to the filing of this information disclosure statement. This statement is made pursuant to the

requirements of 37 C.F.R. §1.704(d) to avoid reduction of the period of adjustment of the patent term for Applicant(s) delay.

- F.  37 CFR §1.98(a)(2). The content of the Information Disclosure Statement is as follows:
- Copies of each of the references listed on the attached Form PTO/SB/08 are enclosed herewith.
  - OR --
  - Copies of U.S. Patent Documents (issued patents and patent publications) listed on the attached Form PTO/SB/08 are NOT enclosed.
  - AND/OR --
  - Copies of Foreign Patent Documents and/or Non Patent Literature Documents listed on the attached Form PTO/SB/08 are enclosed in accordance with 37 CFR §1.98 (a)(2).
  - AND/OR --
  - Copies of pending unpublished U.S. patent applications are enclosed in accordance with 37 CFR §1.98(a)(2)(iii).
- G.  37 CFR §1.98(a)(3). The Information Disclosure Statement includes non-English patents and/or references.
- Pursuant to 37 CFR §1.98(a)(3)(i), a concise explanation of the relevance of each patent, publication or other information provided that is not in English is provided herewith.
  - Pursuant to MPEP 609(B), an English language copy of a foreign search report is submitted herewith to satisfy the requirement for a concise explanation where non-English language information is cited in the search report.
  - OR --
  - A concise explanation of the relevance of each patent, publication or other information provided that is not in English is as follows: \_\_\_\_\_
  - Pursuant to 37 CFR §1.98(a)(3)(ii), a copy of a translation, or a portion thereof, of the non-English language reference(s) is provided herewith.
- H. In accordance with the duty of disclosure under 37 C.F.R. § 1.56 and set forth in M.P.E.P. § 2001.06(b), Applicants wish to bring to the Examiner's attention the patents and co-pending United States applications which may be related to the instant application and may be material to patentability, listed below. The chart below is designed to assist the Examiner in the evaluation of the instant application. The status information, compiled from PAIR, is believed to be current as of August 1, 2008, and is subject to change. Applicants have not provided copies of the Office Actions from the patents and co-pending United States applications which may be related to the instant application, since they are believed to be readily available to the Examiner, but would be pleased to do so at the Examiner's request. Copies of the published applications/patents, if applicable, have been cited in a previous Information Disclosure Statement and/or are cited herein and listed on the attached PTO Form SB/08.

No.	U.S. Serial No.	Attorney Docket No.	U.S. Publication No.	PAIR Status	Date	Examiner
1	08/458,276	36671-706.301	5,922,615	Patented Case	07/02/1999	Carol A. Spiegel
2	09/249,321	36671-706.302	6,297,060	Patented Case	09/14/2001	Christopher L. Chin
3	07/887,526	36671-716.201	5,458,852	Patented Case	10/06/1995	Harold Y. Pyon
4	09/805,653	36671-716.301	6,767,510	Patented Case	07/08/2004	Lyle Alexander
5	10/792,258	36671-716.303	US 2005-0112782 A1	Notice of Allowance Mailed – Application Received in Office of Publications	06/30/2008	Bao Thuy L. Nguyen
6	11/022,297	36671-716.304	US 2005-0136552 A1	Response to Non-Final Office Action Entered and Forwarded to Examiner	07/24/2008	Lyle Alexander
7	08/447,981	36671-716.401	5,885,527	Patented Case	03/10/1999	Harold Y. Pyon
8	08/447,895	36671-716.501	6,019,944	Patented Case	1/20/2000	Lyle Alexander
9	08/828,041	36671-716.502	6,156,270	Patented Case	11/16/2000	Lyle Alexander
10	08/902,775	36671-716.503	6,271,040	Patented Case	7/19/2001	Lyle Alexander
11	08/810,569	36671-716.504	6,143,576	Patented Case	10/20/2000	Bao Thuy L. Nguyen
12	09/613,650	36671-716.505		Appeal Brief (or Supplemental Brief) Entered and Forwarded to Examiner	7/23/2008	Lyle Alexander
13	09/982,629	36671-716.506	6,905,882	Patented Case	5/25/2005	Lyle Alexander
14	08/704,804	36671-728.201	6,391,265	Patented Case	5/3/2002	Lyle Alexander
15	10/153,423	36671-728.301	US 2003-0035758 A1	Appeal Awaiting BPAI Docketing	3/22/2008	Lyle Alexander
16	08/749,702	36671-729.201	6,113,855	Patented Case	8/18/2000	Jan M. Ludlow

17	09/612,815	36671-729.301	6,669,907	Patented Case	12/11/2003	Jan M. Ludlow
18	10/746,282	36671-729.302	US 2005-0147531 A1	Non final action mailed	6/26/2008	Jan M. Ludlow
19	08/942,370	36671-733.201	6,106,779	Patented Case	8/3/2000	Pensee T. Do
20	09/003,066	36671-734.201	6,074,616	Patented Case	5/30/2000	Long V. Le
21	09/545,699	36671-734.301	6,392,894	Patented Case	5/3/2002	Thanh Y. Tran
22	09/358,130	36671-737.201	6,302,919	Patented Case	9/27/2001	David A. Reifsnnyder
23	09/003,065	36671-740.201	6,194,222	Patented Case	2/9/2001	Lisa V. Cook
24	09/712,615	36671-740.301		Response to Non-Final Office Action Entered and Forwarded to Examiner	7/31/2008	Lisa V. Cook
25	11/676,032	36671-740.401	US 2007-0154970 A1	Response to Non-Final Office Action Entered and Forwarded to Examiner	7/23/2008	Lisa V. Cook

I.  37 CFR §1.98(d). Copies of patents, publications and pending U.S. patent applications, or other information specified in 37 C.F.R. § 1.98(a) are not provided herewith because:

- Pursuant to 37 CFR §1.98(d)(1) the information was previously submitted in an Information Disclosure Statement for another application under which this application claims priority for an earlier effective filing date under 35 U.S.C. 120.

Application in which the information was submitted: \_\_\_\_\_

Information Disclosure Statement(s) filed on: \_\_\_\_\_

AND

- The information disclosure statement submitted in the earlier application complied with paragraphs (a) through (c) of 37 CFR §1.98.

J.  *Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of \$0.00 and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 23-2415 (36671-716.302).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI



By: \_\_\_\_\_

Chantal Morgan D'Apuzzo, Ph.D., J.D.  
Reg. No. 48,825

Dated: August 5, 2008

650 Page Mill Road  
Palo Alto, CA 94304-1050  
(650) 493-9300  
Customer No. 80984